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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,471	01/20/2000	Neelakantan Sundaresan	AM9-99-0201	4485

7590 03/09/2004  
Samuel A. Kassatly  
6819 Trinidad Drive  
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EXAMINER

PHAM, HUNG Q

ART UNIT	PAPER NUMBER
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2172

14

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/488,471

**Applicant(s)**

SUNDARESAN, NEELAKANTAN

**Examiner**

HUNG Q PHAM

**Art Unit**

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 01/06/2004 have been fully considered but they are not persuasive.

As argued by applicant on page 18:

*As a result, BizRate does not describe a self-correcting system for use .... based upon a ranking of businesses that are selected from an unrestricted pool of merchants....*

In response to applicant's arguments, the recitation as argued above has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

The arguments on pages 19-20 based on the new features that were added to claims 1, 9, 17 and 25 are answered in the following action.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 1, 9, 17 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

As in claims 1, 9, 17 and 25, the features: *businesses that are selected from an unrestricted pool of merchants, and updated cumulative business satisfaction ratings from the users' on-line surveys or feedback automatically cause the on-line ranking system to re-index the rating data* were not described in the specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1, 9, 17 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claims 1, 9, 17 and 25 recite the limitation *the on-line ranking system*. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 6-10, 14-18, 22-26 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over BizRate.com [http://web.archive.org/web/19981205082910/http://www.bizrate.com/] in view of Peters et al. [USP 5,893,098].**

Regarding to claims 1, 9, 17 and 25, BizRate.com is an online service website that provides consumers with information of a product based on ranking data from customers. A merchant is evaluated by a remote user either at the time of sale via a Web interface, or after product delivery via email (BizRate, page 19). As shown in pages 17-18 is a summary of feedback from actual customers. Thus, the BizRate system conducts two kinds of survey, one via a Web interface as on-line, and one via email as *off-line*. If the survey received by email, BizRate is *an off-line ranking system for receiving any of users' online surveys or feedback about businesses*. Every merchant listed in

Art Unit: 2172

BizRate has been rated based on 10 dimensions of service, which includes, Price, Product Selection, Product Information... (BizRate, pages 8 and 13-14) as the step of *generating rating data from the any of the users' off-line surveys or feedback*. As shown in page 1 is an interface of BizRate for receiving a query, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations. Pages 3-5 is a result of the merchants under category Apparel > Accessories. By using Shopping Filters feature, a user could filter the list of merchants to only those that have the features and capabilities of the user. If only one aspect of shopping is particularly important to a user, a pull down menu could be used to have the merchants ranked according to the rating data on that dimension (BizRate, page 11). As seen in pages 3-5, by entering keywords into the search box, a remote user receives a result list of merchant as in pages 3-5. If the filter is disable, *the rating data correlates* SunglassSite.com as *higher quality search match to* an overall rating of 8.47 based on 0-10 numerical rating scale as *higher business satisfaction rating*. Pages 3-5 also indicate *a result sorter for sorting query results generated by the search engine, based on the rating data and for generating ranked matches*. As shown in pages 22-26 is the survey for B2C Online Merchant based on a user profile with the user's email address for communication as *creating a user profile history from a user's address*. B2C could be re-rated by the user if he/she makes another purchase with B2C as disclosed in page 19, and obviously, the rating will be updated based on the last evaluation as *enabling the user to update rating that was previously provided by the user*, and by using the email address, no one can revise rating provided by others as *disabling the user from revising*

*rating provided by other users. BizRate fails to teach the step of indexing the rating data, storing the rating data indexed by the off-line ranking system, and updated cumulative business satisfaction rating from the users' on-line ranking system or feedback automatically cause the on-line ranking system to re-index the rating data, and further cause the result sorter to generate ranked matches based on the re-indexed rating data.* Peters teaches a system for obtaining surveys from a plurality of users (Peters, Col. 2, Line 45-Col. 3, Line 16). The survey answers with rating data are indexed and stored in a database by name and email address as *indexing the rating data* and *storing the rating data* (Peters, Col. 4, Lines 28-30; Col. 19, Lines 46-57; Col. 21, Line 65-Col. 22, Line 13; Col. 30, Lines 12-19). Peters further discloses the database is updated with respondents answer, or added by new survey (Peters, Col. 26, Lines 43-50). As seen, the feedback causes the system to re-index the database with update or new respondents answer by using email address, and obviously on BizRate, based on the new rating after re-indexing rating data, when a new search occurs, a new rank match is similar to BizRate pages 3-5 will be returned to the user as *feedback automatically cause the on-line ranking system to re-index the rating data, and further cause the result sorter to generate ranked matches based on the re-indexed rating data.* It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate system by indexing the rating data and storing the rating data that were index in a data repository as taught by Peters in order to update, retrieve the rating data of a business survey.

Regarding to claims 2, 10, 18 and 26, BizRate and Peters teaches all the claimed subject matters as discussed in claims 1, 9, 17 and 25, BizRate further discloses *a search results transformer that converts the ranked matches to a user browsable form* (BizRate, pages 3-5).

Regarding to claims 6, 14, 22 and 30, BizRate and Peters teaches all the claimed subject matters as discussed in claim 1, 9, 17 and 25, BizRate further discloses *an on-line ranking system for receiving rating data compiled from an on-line source based on interactive criteria* (BizRate, page 19), Peters teaches the technique of *indexing rating data* (Peters, Col. 19, lines 46-57; Col. 21, line 65-Col. 22, line 13; Col. 30, lines 12-19).

Regarding to claims 7, 15, 23 and 31, BizRate and Peters teaches all the claimed subject matters as discussed in claims 1, 9, 17 and 25, BizRate further discloses *any of the users' on-line surveys or feedback include any one or more of a questionnaire, a survey, or a web based rating service* (BizRate, pages 13-14).

Regarding to claims 8, 16, 24 and 32, BizRate and Peters teaches all the claimed subject matters as discussed in claims 1, 9, 17 and 25, BizRate further discloses *the interactive criteria assess the quality of a business in terms of any one or more of: customer satisfaction, professionalism, cost, and ease of use of a product or service* (BizRate, pages 13-14).



Art Unit: 2172

**Claims 3-5, 11-13, 19-21 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over BizRate.com [http://web.archive.org/web/19981205082910/http://www.bizrate.com/] in view of Peters et al. [USP 5,893,098] and Applicant Admitted Prior Art [Background of the Invention, pages 1-3].**

Regarding to claims 3, 11, 19 and 27, BizRate and Peters teaches all the claimed subject matters as discussed in claims 2, 10, 18 and 26, but fails to disclose *an indexing engine that indexes web documents to generate indexed data*. Applicant Admitted Prior Art teaches *an indexing engine that indexes web documents to generate indexed data* (Applicant Admitted Prior Art, page 2, lines 6-16). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate and Peters system by using a Web Crawler to index web documents in order to update the merchant database.

Regarding to claims 4, 12, 20 and 28, BizRate, Peters and Applicant Admitted Prior Art teaches all the claimed subject matters as discussed in claims 3, 11, 19 and 27, Applicant Admitted Prior Art further discloses *a metadata repository for storing web documents that have been download on-line* (Applicant Admitted Prior Art, page 2, lines 6-16).

Art Unit: 2172

Regarding to claims 5, 13, 21 and 29, BizRate, Peters and Applicant Admitted Prior Art teaches all the claimed subject matters as discussed in claims 3, 11, 19 and 27, BizRate further discloses *a query transformer which, when prompted by a query request to the indexed data and generates the query results* (BizRate, page 1).

### **Conclusion**

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q PHAM whose telephone number is 703-605-4242. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN E BREENE can be reached on 703-305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner Hung Pham  
March 5, 2004

  
SHAHID ALAM  
PRIMARY EXAMINER